



DEPARTMENT OF ENVIRONMENTAL RESOURCES

3800 Cornucopia Way, Suite C, Modesto, CA 95358-9494
Phone: 209.525.6700 Fax: 209.525.6774

February 13, 2018

Elks Lodge BPOE 1282
645 Charity Way
Modesto, CA 95356

TRANSMITTAL OF CITATION NO. DER-18C-002 FOR TCR MCL FAILURE

The Elks Lodge BPOE 1282 Water System violated the Maximum Contamination Level (MCL) for total coliform bacteria during the month of July 2017, as specified in the Domestic Water Quality a Monitoring Regulation, Chapter 15, Title 22, California Code of Regulations. The Stanislaus County Department of Environmental Resources has issued Citation No. DER-18C-002 in response to this violation. The citation is being transmitted to the Elks Lodge BPOE 1282 Water System under cover of this letter. Please review and confirm each item of the Directives established in the citation.

Any person who is aggrieved by a citation issued by the Stanislaus County Department of Environmental Resources may file a petition with the State Water Resources Control Board (State Water Board) for reconsideration of the citation. Petitions must be received by the State Water Board within 30 calendar days of the issuance of the citation. The date of issuance is the date when the Stanislaus County Department of Environmental Resources mails or serves a copy of the citation whichever occurs first. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day. Petitions must be received by 5:00 p.m. Information regarding filing petitions may be found at:

http://www.waterboards.ca.gov/drinking_water/programs/petitions/index.shtml

Section 116650(d) and Section 116650(e) of the California Health and Safety Code allow for the assessment of a civil penalty for failure to comply with the requirements of Chapter 4 of the California Safe Drinking Water Act. Stanislaus County Ordinance provides that fees must be charged for staff time in responding to MCL violations. The fee charged is the Department's weighted labor rate of \$106.00 per hour, with a one-hour minimum. To date, 2.0 hours have been spent responding to the MCL violation. This Department will invoice you.

If you have any questions regarding this matter, please contact Rachel Riess at (209) 525-6720.

Sincerely,

Rachel Riess, REHS
Registered Environmental Health Specialist

Enclosure (1)

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STANISLAUS COUNTY
DEPARTMENT OF ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL HEALTH

TO: Elks Lodge BPOE 1282
645 Charity Way
Modesto, CA 95356

Attn: Elks Lodge BPOE 1282, Owner
Elks Lodge BPOE 1282

CITATION FOR VIOLATION OF CALIFORNIA CODE OF REGULATIONS,
TITLE 22, SECTION 64426.1 (b)
TOTAL COLIFORM RULE VIOLATION
WATER SYSTEM NO. 5000563
C I T A T I O N N O . D E R - 1 8 C - 0 0 2
Issued on February 13, 2018

The Department of Environmental Resources (hereinafter "Department"), acting by and through its Division of Environmental Health (hereinafter "Division") and the Manager for the Division (hereinafter "Manager"), hereby issues this Citation (hereinafter "Citation") pursuant to Sections 116330 (f) and 116650 of the California Health and Safety Code (hereinafter "CHSC") to the Elks Lodge BPOE 1282 (hereinafter, "Elks Lodge") for violation of Title 22, California Code of Regulations (CCR), Section 64426.1 (b).

APPLICABLE AUTHORITIES

Section 116650 of California Health and Safety Code provides:

(a) If the Division determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the Division may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.

(b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.

(c) A citation may specify a date for elimination or correction of the condition constituting the violation.

(d) A citation may include the assessment of a penalty as specified in subdivision (e).

(e) The Division may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation.

California Code of Regulations, Title 22, Section 64426.1, subsection (b) provides, in relevant part:

(b) A public water system is in violation of the total coliform Maximum Contaminant Level ("total coliform MCL") when any of the following occurs:

(2) For a public water system which collects fewer than 40 samples per month, more than one sample collected during any month is total coliform-positive; or

(3) Any repeat sample is fecal coliform-positive or E.coli-positive; or

1 (4) Any repeat sample following a fecal coliform-positive or E.coli-positive
2 routine sample is total coliform-positive.
3

4 **STATEMENT OF FACTS**

5 Elks Lodge is operated under Water Supply Permit No. 09-03-0156, which was issued
6 on March 25, 2009.
7

8 Elks Lodge water system is located in Stanislaus County along Charity Way
9 approximately 0.2 mile West of the City of Modesto. Elks Lodge's service area is
10 approximately 2.57 acres in size.
11

12 Elks Lodge's water system is classified as a nontransient noncommunity water
13 system that serves the customers, visitors and employees of a special events and
14 banquet hall. According to the 2016 Annual Report to the Division, Elks Lodge serves
15 approximately 50 people through one service connection. The one service
16 connection is un-metered. The water system obtains its water supply from one active
17 well located on Elks Lodge property.
18

19 The well discharges to a 900-gallon pressure/storage tank, prior to entering the
20 domestic water system. Irrigation demands are provided by this well and are supplied
21 by a separate dedicated backflow prevention device.
22

23 With a population of 50, the Elks Lodge water system is required to have one sample
24 examined for bacteriological quality every month from its distribution system. The
25 Elks Lodge's contract laboratory, Far West Laboratories, utilizes the testing SM9223
26 method for bacteriological analyses.
27

1 Specifically, on July 25, 2017, the Elks Lodge water system collected one routine
2 sample for bacteriological quality from the designated site in the distribution system.
3 One sample, collected from the hose bib southeast side of the building, tested positive
4 for total coliform bacteria. The sample was negative for E.coli coliform bacteria.

5
6 On July 28, 2017, the Elks Lodge water system collected four repeat samples (one
7 sample each from the routine coliform positive sample location, the downstream
8 locations, the upstream locations and the well head). One of the repeat samples
9 tested positive for total coliforms and none were E.coli coliform positive.

10 11 **DETERMINATION**

12 The Division has determined that Elks Lodge failed to comply with the requirements of
13 Section 64426.1 (b) due to the fact that Elks Lodge had more than one sample during
14 the month of July 2017 that was total coliform-positive. Therefore, Elks Lodge is in
15 violation of Section 64426.1 (b) of the California Code of Regulations.

16 17 **DIRECTIVES**

18 Elks Lodge is hereby directed to take the following actions:

19
20 1. On August 21, 2017, this Division directed the Elks Lodge to notify the
21 consumers by August 28, 2017, of the bacteriological quality (Total Coliform
22 Rule) failure in conformance with Section 64464.3(a)(1), Title 22, CCR. The
23 notification shall be provided in accordance with the following:

- 24
25 a. Provide written notice of the bacteriological water quality MCL violation
26 by mail or by direct hand delivery to every customer and by publication
27 of notice in a newspaper of general circulation in the area served by the

1 Elks Lodge. The notice shall be published and delivered once, no later
2 than the above mentioned date.

3 This notification shall be given in English. In addition, if the Elks Lodge
4 water system serves a large proportion of other non-English speaking
5 consumers, notices must contain some information in the appropriate
6 language(s) on the importance of the notice as provided in the
7 Department's guidance for the Consumer Confidence Report.

- 8 b. The contents of the notice, including the mandatory language, shall be
9 approved by the Department prior to publication and delivery.

10 A sample notification form that can be used to satisfy the public
11 notification requirement has already been provided to Jim Johnson by
12 email.

- 13 c. On August 31, 2017, the Elks Lodge submitted to the Department the
14 Proof of Notification using an approved notification form.

- 15
16 2. On August 21, 2017, this Division directed the Elks Lodge to perform an
17 investigation to determine the cause of possible significant rise in bacterial
18 count in the Elks Lodge distribution system during the month of July 2017. A
19 report of the investigation shall also be prepared in accordance with Section
20 64426 (b)(2), Title 22, CCR, and submitted to the Department by September
21 28, 2017. A form that should be used to meet this requirement also has
22 already been sent to Jim Johnson by email.

- 23 a. On August 31, 2017, the Elks Lodge submitted to the Department the
24 RTCR Level 1 Assessment Form.

25
26 The Division reserves the right to make such modifications to this Citation as it may
27 deem necessary to protect public health and safety. Such modifications may be
28 issued as amendments to this Citation, and shall be deemed effective upon issuance.

1 Nothing in this Citation relieves Elks Lodge of its obligation to meet the requirements
2 of the California Safe Drinking Water Act, or of any regulation, permit, standard, or
3 order issued or adopted thereunder.

4
5 All submittals required by this Citation shall be submitted to the Division at the
6 following address:

7
8 Rachel Riess, REHS
9 Department of Environmental Resources
10 3800 Cornucopia Way, Suite C
11 Modesto, CA 95358
12

13 **PARTIES BOUND**

14 This Citation shall apply to and be binding upon Elks Lodge, its officers, directors,
15 shareholders, agents, employees, contractors, successors, and assignees.
16

17 **SEVERABILITY**

18 The Directives of this Citation are severable, and Elks Lodge shall comply with each
19 and every provision thereof, notwithstanding the effectiveness of any other provision.
20

21 **FURTHER ENFORCEMENT ACTION**

22 The California SDWA authorizes the Department to: issue citation with assessment of
23 administrative penalties to a public water system for violation or continued violation of
24 the requirements of the California SDWA or any permit, regulation, permit or order
25 issued or adopted thereunder including, but not limited to, failure to correct a violation
26 identified in a citation or compliance order. The California SDWA also authorizes the
27 Board to take action to suspend or revoke a permit that has been issued to a public
28 water system if the system has violated applicable law or regulations or has failed to

1 comply with an order of the Department; and to petition the superior court to take
2 various enforcement measures against a public water system that has failed to
3 comply with violates an order of the Department. The Department does not waive any
4 further enforcement action by issuance of this citation.

5
6 2/13/18

7
8 Date

9 Rachel Riess

10 Rachel Riess, REHS

11 Senior Environmental Health Specialist

12 Division of Environmental Health

13 Department of Environmental Resources

14 Stanislaus County

15 Certified Mail No. 7014 3490 0001 6849 4347